

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FRANKLIN BUONO,

Plaintiff,

V.

POSEIDON AIR SYSTEMS, VICTORY AUTO
STORE, INC., VICTORY AUTO STORES, INC.
d/b/a POSEIDON AIR SYSTEMS,
WORTHINGTON INDUSTRIES, INC., AND
TYCO FIRE PRODUCTS LP,

Defendants.

Civil Action No. 7:17-cv-05915 (PMH)

DECLARATION OF JAMES KIRKPATRICK

TYCO FIRE PRODUCTS LP,

Third-Party Plaintiff,

V.

OPRANDY'S FIRE & SAFETY INC.,

Third-Party Defendant.

I, James W. Kirkpatrick, hereby declare as follows:

1. I am an attorney at the law firm of Williams & Connolly LLP, and I represent Defendant Tyco Fire Products, LP, in this action. The facts set forth herein are based on my personal knowledge, and if called and sworn as a witness, I could and would testify competently thereto. I make this declaration in support of Tyco's motion for summary judgment.

2. Plaintiff Franklin Buono filed this action in New York State Supreme Court for Orange County on June 15, 2017. It was removed to this Court on August 4, 2017. Discovery in this matter closed on July 17, 2020. Pursuant to an order of the Court, Tyco filed its Local Rule 56.1 statement and Plaintiff's responses on February 24, 2021. *See* ECF No. 170-1.

3. Attached hereto as Exhibit 1 is a true and correct copy of the transcript of the 4/30/2018 deposition of Franklin Buono.

4. Attached hereto as Exhibit 2 is a true and correct copy of a declaration by Brad A. James, dated February 1, 2021.

5. Attached hereto as Exhibit 3 is a true and correct copy of a declaration by Erik W. Christiansen, dated February 1, 2021.

6. Attached hereto as Exhibit 4 is a true and correct copy of the transcript of the 6/25/2020 deposition of Tom Taranto.

7. Attached hereto as Exhibit 5 is a true and correct copy of the Pyro-Chem Kitchen Knight II Technical manual, produced by Tyco as TFP-280809-000061.

8. Attached hereto as Exhibit 6 is a true and correct copy of a bulletin regarding the Pyro-Chem Kitchen Knight II System, produced by Tyco as TFP-280809-001376.

9. Attached hereto as Exhibit 7 is a true and correct copy of a declaration by Kurt Juliano, dated February 1, 2021.

10. Attached hereto as Exhibit 8 is a true and correct copy of the transcript of the 9/12/2019 deposition of Adam R. Menor.

11. Attached hereto as Exhibit 9 is a true and correct copy of the transcript of the 9/12/2019 deposition of Curtis N. Harding.

12. Attached hereto as Exhibit 10 is a true and correct copy of the transcript of the 7/14/2020 deposition of Kurt Juliano.

13. Attached hereto as Exhibit 11 is a true and correct copy of the transcript of the 5/2/2018 deposition of Brian Scott.

14. Attached hereto as Exhibit 12 is a true and correct copy of Oprandy's Fire & Safety Inc.'s Response to Tyco Fire Products LP's Request for Production of Documents, dated June 24, 2019.

15. Attached hereto as Exhibit 13 is a true and correct copy of a declaration by Zdenek Hejzlar, dated February 1, 2021.

16. Attached hereto as Exhibit 14 is a true and correct copy of the transcript of the 7/23/2019 deposition of Franklin Buono.

17. Attached hereto as Exhibit 15 is a true and correct copy of a 4/18/2016 Statement of Franklin Buono to OSHA, produced by Plaintiff as BUONO-001715.

18. Attached hereto as Exhibit 16 is a true and correct copy of excerpts of the 2020 New York State Fire Code, marked as Exhibit 7 in the 6/25/2020 deposition of Tom Taranto.

19. Attached hereto as Exhibit 17 is a true and correct copy of *NFPA® 17: Standard for Dry Chemical Extinguishing Systems (2013 Ed.)*, marked as Exhibit 4 in the 6/25/2020 deposition of Tom Taranto.

20. Attached hereto as Exhibit 18 is a true and correct copy of *NFPA® 10: Standard for Portable Fire Extinguishers (2013 Ed.)*, marked as Exhibit 3 in the 6/25/2020 deposition of Tom Taranto.

21. Attached hereto as Exhibit 19 is a true and correct copy of *NFPA® 17A: Standard for Wet Chemical Extinguishing Systems (2013 Ed.)*, marked as Exhibit 2 in the 6/25/2020 deposition of Tom Taranto.

22. Attached hereto as Exhibit 20 is a true and correct copy of *CGA P-1 (2015): Standard for Safe Handling of Compressed Gases in Containers*, marked as Exhibit 5 in the 6/25/2020 deposition of Tom Taranto.

23. Attached hereto as Exhibit 21 is a true and correct copy of the transcript of the 7/21/2020 deposition of Eric J. Boelhouwer.

24. Attached hereto as Exhibit 22 is a true and correct copy of a declaration by Chason J. Coelho, dated February 1, 2021.

25. Attached hereto as Exhibit 23 is a true and correct copy of *CGA C-7 (2014): Guide to Classification and Labeling of Compressed Gases*, marked as Exhibit 6 in the 6/25/2020 deposition of Tom Taranto.

26. Attached hereto as Exhibit 24 is a true and correct copy of the transcript of the 7/20/2020 deposition of Derek Nolen.

27. Attached hereto as Exhibit 25 is a true and correct copy of the transcript of the 9/18/2019 deposition of Patricia Hawkins-Scott, as Oprandy's 30(b)(6) Representative.

28. Attached hereto as Exhibit 26 is a true and correct copy of the Pyro-Chem Kitchen Knight Technical manual, produced by Tyco as TFP-280809-000001.

29. Attached hereto as Exhibit 27 is a true and correct copy of the transcript of the 6/26/2020 deposition of Tom Taranto.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 24th day of March, 2021, in Arnold, Maryland.

A handwritten signature in black ink, appearing to read 'J. Kirkpatrick', is written over a horizontal line.

James Kirkpatrick